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## DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS CORRECTIONS SERVICES

### GROWTH IN PRISON POPULATIONS

**FINDING:** From Fiscal Year 1994/95 through Fiscal Year 2000/2001 the prison population has grown by 50%; from 25,260 to 38,000 inmates. Expenditures over this same period increased by \$254.6 million, a 70% increase. Changes in state and federal sentencing guidelines over the past 5 years have had a tremendous impact on the growth in prison populations. This includes mandatory minimum terms, requirements that a minimum 85% of the sentence is served, and “three strikes “ laws. Additionally, since many of the state’s inmates are being incarcerated for longer periods and, with no chance of parole, the number of aging and chronically ill inmates is increasing.

The committee reviewed a great deal of historical and statistical information on offenders in state prisons, as well as information on effective community and institutional programs that decrease recidivism and help to prevent crime. Some of these alternatives are seeing limited use in Louisiana and may be worthy of expansion. People who are committed for violent offenses should be incarcerated for long term; however there are alternatives for low level drug and property offenders who could be more efficiently and effectively dealt with in the community. These alternatives would cost the state less money than it is currently spending and be more effective in terms of results. For instance, low-level drug offenders (possession only) could be diverted to drug courts which are less costly and more effective. Restorative Justice initiatives for low level property offenders allow them to make restitution, fix damage done to their surroundings, and participate in job skills, education and drug treatment programs. In general, the best strategies to reduce growth in incarceration are investments in basic education, values clarification skills, job skills programs and drug treatment programs.

It is important to consider that, in most cases, a short-term investment of new dollars must be made in order to realize the long-term benefit. It is generally not possible to expect to reduce the cost of incarceration by an amount equivalent to the expenditure on drug treatment, education, job skills training and other programs in the initial fiscal year of implementation.

#### **OPTION 1: The Parole Board should review parole considerations for inmates who meet the criteria for early release under R. S. 15:574.4 and R.S. 15:574.20**

**Description and Background:** R.S. 15:574.4 allows parole consideration for inmates who received sentences of 30+ years (except lifers) who have served at least 20 years and who are at least 45 years of age. Similar consideration may be reasonable for inmates with life sentences who are at least 60 years of age and who have served at least 30 to 40 years. In the past three years, fewer than 25 inmates have been granted parole considerations in accordance with this law.

**R.S. 15:574.20** allows for medical parole consideration for inmates by the Board of Parole (is not available to any inmate who is awaiting execution or who has a contagious disease).

An inmate eligible for consideration for release under the program shall be any person who, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

- (1) "*Permanently incapacitated inmate*" which shall mean any person who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society; or
- (2) "*Terminally ill inmate*" which shall mean any person who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

These inmates are currently receiving some medical care through the LSU Health Care Services Division (LSUHSC). LSUHSC currently absorbs the cost of inmates admitted to their Intensive Care Unit. However, in a recent ruling HCFA determined that these inmates must be granted an unconditional parole before they would qualify for Medicare. In the past three years, only two inmates have been granted parole considerations in accordance with this law.

**Estimated Fiscal Impact:** There are currently 1,350 inmates age 45 or older who have served 20 or more years that may qualify under **R.S. 15:574.4** for early release. Approximately 68 of these inmates are age 60 or older and have served 30 or more years (3 on death row, 673 lifers and 674 regular offenders). The average cost to incarcerate each of these individuals (including some health care costs, but excluding LSU Health Care Services) is \$17,748. Annual expenditures for these individuals totals over \$22 million.

There are currently 30 inmates that qualify under **R.S. 15:574.20** for medical parole. The average cost to incarcerate these individuals currently ranges from \$17,859 to \$20,929 annually (\$535,770 to \$627,870 total costs). These figures are DPS&C expenditures only and do not represent the services provided by LSU Health Care Services Division.

**Action Required to Implement:** Resolution to urge and require the Parole Board to review parole considerations for inmates who meet the criteria for these early release programs.

**FINDING:** Mandated sentencing guidelines reduce judicial discretion in sentencing offenders to alternative community intervention and supervision programs which are more cost efficient and help in reducing recidivism.

**OPTION 1:** Review minimum mandatory sentencing guidelines to allow for increased participation in alternative programs. (See Appendix pp. 31-38) (Note: this would not change the enumerated crimes of violence and the 85% sentence served as required by the federal government to qualify for VOITIS funds.) A number of different programs and their estimated fiscal impact are identified below:

### **DRUG COURTS**

**Description and Background:** Drug Courts are special courts given the responsibility to handle cases involving less serious drug-using offenders through a supervision and treatment program. These programs include frequent drug testing, judicial and probation supervision, drug counseling, treatment, educational opportunities, and the use of sanctions and incentives. The court works with offenders who have no previous drug convictions or history of violence. Almost all drug courts exclude offenders charged with sales of drugs, possession for sale of drugs, or other serious offenses. Funding under the Crime Bill excludes participation by any offender who has been charged with a violent offense or who has a prior conviction for a violent crime. Offenders are placed on supervised probation and assigned a probation and parole officer who closely monitors the offenders activities and conducts frequent drug screens, as well as confirms attendance at substance abuse counseling, work and/or educational programming. The offender is returned to court periodically where the officer reports on progress made. If there is non-compliance, the judge can take immediate action to sanction the offender. According to a national survey by the Department of Justice, 70 percent of all drug court participants have either finished the program or stayed in treatment; 90 percent of drug tests have been clean; and the recidivism rate for program graduates is only 4 percent, compared to well over 50 percent for defendants who go through the "traditional adjudication process."

Louisiana presently has 14 active adult drug courts and 11 juvenile drug courts. With all sources of funding, drug courts have the treatment capacity to serve 1,339 adults and 445 juveniles (1,784 total). DHH Office of Addictive Disorders reports that some 2,266 persons have been admitted to Louisiana's drug court system this year. Of that number, 178 have successfully completed the program and 1,471 remain in active status. Seventy-five percent of the successful participants are gainfully employed; 33% have obtained either their GED or high school diploma. National retention rates are 70%; Louisiana reports a rate of 74%.

**Estimated Fiscal Impact:** It has been demonstrated that drug courts reduce the cost of adjudicating low level drug offenders. Substantial benefits include reduced recidivism and days of incarceration, shorter supervision periods, increased employment and higher levels of social functioning, all generating significant long-term savings to taxpayers. The average cost of incarcerating adult offenders in state correctional facilities or local jails

for FY 01-02 is projected to cost \$12,300 per year, (juvenile incarceration costs are \$46,700 per year). The cost of an adult drug court slot is \$3,600 for a two-year treatment program (\$5,000 for juveniles). The existing 1,784 drug court slots currently cost the state approximately \$7 million annually. Providing an additional \$2 million in funding for adult and juvenile drug court slots could save the state \$24 million in incarceration costs over the next two years.

### **RESTORATIVE JUSTICE**

**Description and Background:** Restorative Justice is not any one program or process. It recognizes that, to heal the effects of crime, we must attend to the needs of the individual victims and communities that have been harmed to reduce the likelihood of their reoccurrence. One example of the program is the Reparative Probation program in the State of Vermont. The program offers an alternative to traditional probation and incarceration. The offender appears before a reparative board, a panel of trained citizen volunteers. The victim is not required to be present. The board works with the offender to establish what he can do to repair the wrong that has been done. The outcome is a signed agreement, an "action plan" that the offender agrees to follow. He has 90 days to fulfill the terms of the agreement. If he fails to complete the terms of the agreement, the offender is returned to court. In two years, the board met with 2,421 offenders; only 233 (9%) negatively terminated their agreement and were returned to court.

**Estimated Fiscal Impact:** Cannot be determined at this point in time.

### **VICTIM OFFENDER MEDIATION**

**Description and Background:** Victim Offender Mediation (VOM) has been implemented in several jurisdictions through the country. VOM provides an opportunity for victims of crime, primarily low level property offenses and minor assaults, to meet their offenders in the presence of a trained mediator. The goal is to hold offenders directly accountable while providing important support and assistance to victims. With the aid of trained mediators, the victims are able to let the offenders know how the crime affected them, receive answers to their questions and be directly involved in developing restitution plans that hold the offenders financially accountable for the losses they caused. Failure to complete the restitution agreement results in further court-imposed consequences. A recent survey conducted by the University of Minnesota, School of Social Work, identified 289 VOM programs currently in operation in communities throughout the United States. Over 60 percent of the VOM programs were operated by either church or community-based organizations.

In Louisiana, recently enacted legislation (Ch.C. Arts. 435-445) allows for mediation as a new option for juvenile offenders in delinquency and other proceedings. The court may order a referral for mediation between the alleged victim and offender. The parties must attend scheduled sessions and attempt to mediate in good faith, but are not required to reach an agreement. With grant funding, this concept is being piloted in Jefferson Parish. The success of this option is contingent upon funding for mediators. There are many adult and juvenile offenders in state custody for low-level offenses that might possibly be considered for mediation or other types of restorative efforts, whereby the offender could

repair the harm done by performing community services, work to earn money to repay or replace what is owed, etc. victimized, allows for more active involvement of crime victims and community members in the justice process and reduces further criminal behavior. The cost to implement these programs is minimal using volunteer citizens while the economic and social impact would be significant.

**Estimated Fiscal Impact:** Currently, there are 226 juvenile offenders in state custody for low-level property offenses at a cost of \$111 per day. Nearly \$4.5 million could have been saved if only half of these offenders were diverted to a mediation program. In the adult population, there are approximately 650 first offenders whose most serious crime ranges from worthless checks, attempted theft, attempted simple burglary to theft of items valued at less than \$500. If half of these offenders had been diverted through mediation efforts, an annual savings of approximately \$3.5 million may have resulted, or at least have freed these beds for utilization by higher priority violent and chronic offenders.

**Action Required to Implement:** Legislation would eliminate some mandatory sentencing guidelines to allow for judicial discretion in sentencing practices. (There are a number of approaches to adjusting these guidelines, including the elimination of minimum mandatory sentences for attempts of the enumerated crimes.) Appropriations would provide funding for implementation and expansion of existing programs.

<p><b>FINDING:</b> Correctional education programs help inmates break the cycle of criminal activity by providing the knowledge and skills necessary to succeed. Effective programs focus on helping inmates develop problem solving and decision-making skills. A new national study outlines overwhelming evidence linking prison-based education programs to dramatically reduced recidivism rates and crime prevention, finding such programs among the most effective of all crime prevention programs.</p>
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**OPTION 1: Funding sources should be identified to supplement the programs that have proven successful in reducing recidivism.**

**JOB SKILLS EDUCATION PROGRAM (JSEP)**

**Description and Background:** JSEP continues to be an effective vehicle for inmates seeking to increase their academic and vocational potential. A computer-based, three-component learning system developed by the U.S. Army, JSEP includes: 1) an education module; 2) a vocational module; and 3) an after-care treatment program. During the 1998/99 school year, 1,191 adult inmates completed JSEP. Of these, 436 were referred for aftercare services through the Division of Probation and Parole. The recidivism rate for this group of parolees was 14.2% compared to 31.1% for non-JSEP parolees.

**Estimated Fiscal Impact:** The program is currently funded at five institutions at an operating cost of approximately \$610,000 (estimated annual recurring costs of \$135,000 for each existing program includes salaries, supplies and computer maintenance.) The Department hopes to expand the program to include all adult institutions at a total cost of \$1.1 million. The cost per location is \$288,390, the facilities without the program include Phelps Correctional Center, Louisiana State Penitentiary, Work Training Facility/North, and David Wade Correctional Center.

#### **PROJECT METAMORPHOSIS**

**Description and Background:** Project Metamorphosis is a three-year grant-funded program currently located at Elayn Hunt Correctional Center, Louisiana Correctional Institute for Women and Avoyelles Correctional Center. The goal of the program is to reduce recidivism through higher post-release employment and wage rates and increased vocational, cognitive and employability skills. Program components include life skills, employability/work maturity skills, literacy, vocational training, job or school placement and follow-up.

**Estimated Fiscal Impact:** This nationally recognized program has operated since 1997 and has served 1,243 adult inmates. Inmates released in 1999 who participated in Project Metamorphosis had a recidivism rate of 15.8% compared to 22.1% for the general inmate population. This decreased rate of recidivism for Project Metamorphosis participants could generate an annual savings of nearly \$900,000. The Department will be unable to continue this program after the grant expires in Spring 2001 because of the lack of a state general fund appropriation. While the grant has paid for the equipment needed to operate the program, recurring costs average \$380,000 annually for salaries and supplies.

#### **RESOCIALIZATION**

**Description and Background:** Recidivism rates for youth in the Texas Youth Commission (TYC) have declined across the board since 1993. Texas officials attribute this reduction to specialized treatment programs and a behavior modification program called "Resocialization." Currently, the TYC has the resources to offer this specialized treatment to only 40% of the youth who need it. It was found that the youth who completed the specialized treatment were rearrested or reincarcerated at a much lower rate than youth who didn't have access to the special programs. The "Resocialization" program is based upon the premise that youth who have been "socialized" to a delinquent/crime prone subculture, must be held accountable for their behavior, and must be helped to understand and to develop the skills necessary to become positive, pro-social individuals. The Department has proposed a five-tier behavior modification program similar to "Resocialization" built upon the principles of youth development. Participation in the behavior modification program along with the academic, vocational and treatment services available at the juvenile correctional facilities will have a significant, positive impact on the behavior of the offenders and will return them to their communities better equipped to live as productive citizens.

**Estimated Fiscal Impact:** Full implementation is expected to take approximately two years and cost between \$500,000 and \$750,000. The bulk of the cost is for curriculum development and training of direct care personnel. Return on this investment is expected to be a greater chance of success upon release. Recidivism for offenders released in 1994 currently stands at 63.5%. Seventy-three percent of these recidivated as adults.

**Action Required to Implement:** Increase funding for these programs in the General Appropriation Bill

**FINDING:** Recidivism rates for the Intensive Motivational Program for Alternative Correctional Treatment (IMPACT) program participants have been consistently lower than non-participants.

**OPTION 1: Expand the provisions of R.S. 15:574.4(A) and C.Cr.P.Art.901. to allow a greater number of inmates to become eligible for IMPACT program participation.**

**Description and Background:** The Intensive Motivational Program for Alternative Correctional Treatment (IMPACT) is an intensive incarceration program located at Elayn Hunt Correctional Center (EHCC). It is a rigorous multi-faceted program emphasizing discipline, education and rehabilitative therapeutic programs in substance abuse and values re-orientation. IMPACT was authorized by statute in 1986 and currently has a capacity of 200.

Statutory eligibility states that a participant must be:

- Parole eligible;
- Convicted of a non-violent first felony offense or;
- Convicted of a non-violent second felony offense and have never served time in a state prison; or
- Convicted of a first or second offense for possession of cocaine; or
- Convicted of a first offense for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense cocaine when the amount of cocaine involved was 28 grams or less; and
- Be sentenced to state custody for seven years or less.

In addition, each IMPACT candidate undergoes extensive evaluation of suitability criteria prior to eligibility, including consideration of the following:

- Outstanding felony charges;
- Mental or physical health problems that would preclude safe program participation after reasonable accommodations are made or that would require accommodations that would preclude obtaining the fundamentals of the program;
- Significant long-term history of assaultive behavior;

- An assaultive escape within the last five years;
- Sex offenders.

IMPACT has evolved since its inception in a number of ways. Over the years, the original military boot-camp style program has become predominately a “drug treatment” program. The current format of the program is designed to meet the programmatic needs of the chronic substance abuser. It focuses on altering behavior by changing the way the trainee thinks, while forcing the individual to examine the quality of current relationships and evaluate life goals. In 1995, a Job Skills Educational Program (JSEP) was added to the curriculum. JSEP incorporated a self-motivated computer based educational module that allows offenders instructional opportunities in over 220 vocational job prescriptions including GED and college preparatory. In 1997, Moral Recognition Therapy, a sixteen-step program created for the anti-social substance abuser was also added. In June 1998, a fast-track ship fitting/welding vocational component was initiated that provides 200 hours of training in vocations that will provide numerous job opportunities upon release. A proposal to create a 180 hour fast-track carpentry program for IMPACT inmates is in the planning stages. Upon completion of the program, inmates will be qualified for entry-level jobs in the building and construction field. This program is proposed to be the start of a core of trades programs to teach building construction skills. By investing in marketable skills, the inmates have a greater chance at securing employment upon release.

The most efficient indicator of the success of this program is tracking the recidivism rates of participants. Recidivism for the 1997 IMPACT graduates shows that 61% are still living successfully in the community, while 78% of the 1998 graduates remain in the community. Statistics reflect that 54% of the 1997 general population releases and 63% of the 1998 releases remain in the community. Recidivism rates for IMPACT participants have consistently been lower than non-participants. This indicates that IMPACT participants, serving a shorter sentence, are committing fewer crimes than those who serve their sentences through traditional incarceration.

**Estimated Fiscal Impact:** Currently, the average length of incarceration for an inmate in the IMPACT program is 10.3 months. Incarceration costs for this inmate are approximately \$9,610. A similarly profiled inmate traditionally incarcerated would have an average sentence of 5.5 years, and actually serve approximately 2.75 years. Incarceration costs for this inmate are approximately \$31,155. Thus, for each IMPACT class of 200 there is an estimated cost savings of approximately \$4.2 million. As of June 2000, 2,405 inmates have successfully completed this program. This has resulted in an approximate savings of \$51.5 million in operational costs over the thirteen-year history of the program. It also calculates into a capital cost savings of \$13.75 million (\$25,000/bed), by saving the cost of constructing a new 550 bed facility that would have been needed for these offenders.

One time costs of conversion of 79 beds to an IMPACT unit would cost \$882,717 and result in operational savings of \$1.7 million.



The cost of the fast-track carpentry program is estimated to cost \$18,675 to produce 10 graduates in the first class cycle. Subsequent classes will cost \$10,900 per cycle and approximately 6 class cycles can be completed in one fiscal year. Total annual costs are estimated at \$73,100 for 60 inmates.

**Action Required to Implement:** Legislation would eliminate statutory restrictions on eligibility and allow DOC discretion in determining program participation. Additional funding in the General Appropriation Bill would allow for expansion of the program.

**FINDING:** The Supreme Court has recently ruled that the District Attorneys are to act as gatekeeper in recommending who should participate the drug courts. The court said that there was no indication in the enabling legislation that created drug courts that anyone other than the DA was given power to propose defendants to the program. This has created conflicts across the state in terms of utilizing the drug courts as alternative sanctions to incarceration (instead of pre-trial diversion programs).

**OPTION 1: Amend the law to allow for both District Attorneys and Judges to share in the authority to recommend participants to drug courts.**

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program (\$5,000 for juveniles). The existing 1,784 drug court slots currently cost the state approximately \$7 million annually. Providing an additional \$2 million in funding for adult and juvenile drug court slots could save the state \$24 million in incarceration costs over the next two years.

**Action Required to Implement:** Legislation would clarify who is authorized to direct offenders to drug courts.